

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

USA

v.

Civil No. 06-cv-421-JM

Kingston, NH, 43 Mill Rd
Kingston, NH 10 Towle Rd, et al

O R D E R

Defendant-in-rem, Margaret Pandelena, moves to dismiss the forfeiture petition on the basis that three criminal charges against her ex-husband in the state court were nolle prosequi. However, the United States points out her ex-husband was found guilty of drug charges and sentenced to one to five years. In addition, the law is clear that conviction is not necessary to forfeit property civilly. See United States v. One Assortment of 89 Firearms, 465 U.S. 354, 366 (1984) (acquittal on gun violation under 18 U.S.C. § 922 does not bar civil forfeiture under § 924(d)); von Hofe v. United States, 492 F.3d 175, 190 (2d Cir. 2007) ("criminal conviction of a claimant either in state or federal court is neither a necessary nor sufficient precondition to an in rem forfeiture").

The motion is denied. Since the criminal case is complete, the stay imposed by Judge DiClerico on April 25, 2007 is lifted and the parties are directed to confer and file a discovery plan.

SO ORDERED.



James R. Muirhead
United States Magistrate Judge

Date: May 12, 2009

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